

REMARKS

Claims 1-42 are pending. Claims 1-10 have been examined. Claims 2, 5, 6, 10, 15, 20, 32-34, 38, 40 and 42 have been amended to correct typographical errors. New claims 43-62 have been added. Support for the new claims can be found, for example, in original claims 1-20 and on page 14, line 14, to page 15, line 18, and page 18, line 20, to page 19, line 6. Accordingly, these amendments and new claims do not raise an issue of new matter and entry thereof is respectfully requested.

Regarding the Election/Restriction

The claims were previously restricted into 20 groups, and the claims of Group I, claims 1-5, were elected for examination. In a subsequent Office Action, claims 6, 11 and 16 were rejoined with the claims of Group I, and the Office Action indicated that these claims would be examined together. The subsequent Office Action also requested an election of species, and the following species were elected: parthenolide as the sesquiterpene lactone species; andrographolide as the diterpene lactone species; oleanolic acid as the triterpene species; mono- or di-saccharides as the conjugate compound; and glucosamine as the additional component.

In the present Office Action, the elected species are indicated to be free of the prior art. The Examiner indicated that another species has been examined: costunolide as the sesquiterpene lactone and glycyrrhizic acid as the triterpene. Claims 11 and 16 are indicated to be withdrawn because they do not read on these species. However, as indicated in the response mailed April 8, 2003, claims 11 and 16 do read on the elected species, and it is therefore respectfully submitted that these claims should not be withdrawn.

With regard to the elected species, it was indicated in the previous response mailed on April 8, 2003, that claims 1-6, 11 and 16 read on the elected species. Applicants wish to clarify that claims that depend from claims 6, 11 and 16 also read on the elected species. It is therefore respectfully submitted that claims 1-20 read on the elected species. It is further submitted that new claims 43-62 read on the elected species.

Several typographical errors have been noted in the claims previously amended in the response to the Restriction Requirement previously mailed on November 12, 2002. Although claims 11-42 have been indicated to be withdrawn, claims 15, 20, 32-34, 38, 40 and 42 have been amended to correct the typographical errors.

Objections to the Specification

The specification has been objected to because of informalities related to the margin of Table 1 on page 13. As requested by the Examiner, submitted herewith is copy of page 13 with a top margin of at least $\frac{3}{4}$ inch.

The Office Action has also noted the use of trademarks and requested that they be capitalized. Paragraphs containing various trademarks have been amended so that the terms are in all caps, as requested by the Examiner.

Regarding the Drawings

Several of the drawings are objected in the Office Action. In particular, Figure 3 is objected to because the boxes are too dark. Submitted herewith is a corrected Figure 3, with the text in the boxes clearly indicated. Support for the corrected drawing can be found in original Figure 3 and, for example, on page 25, line 12, to page 26, line 4.

The Examiner has also requested a correction to Figure 4. Submitted herewith are amended Figure 4(a), Figure 4(b) and Figure 4(c). The amended Figures 4(a)-(c) more clearly show the key and line associated with andrographolide/PMA, oleanolate/PMA and ursolate/PMA, respectively, as requested by the Examiner. Support for the corrected drawings can be found in original Figures 4(a), 4(b) and 4(c) and on page 23, lines 11-16, page 26, lines 5-18, page 27, lines 5-13, and page 27, line 21, to page 28, line 8, respectively. A marked copy of the Figures is submitted herewith. Entry of the corrected drawings is respectfully requested.

Rejection Under 35 U.S.C. § 102

The rejection of claims 1-10 under 35 U.S.C. § 102(b) as allegedly anticipated by Yng-Wong, U.S. Patent No. 5,874,084, as evidenced by Harborne et al., Phytochemical Dictionary 2nd ed., pp. 666 and 739, Taylor & Francis, Inc., Philadelphia PA (1999), is respectfully traversed. Applicants respectfully maintain that the claimed compositions are novel over Yng-Wong.

In the Office Action, the Yng-Wong reference is alleged to disclose a composition comprising *Saussurea lappa*, which is indicated to inherently contain the sesquiterpene lactone costunolide, and *Glycyrrhizae glabra*, which is indicated to inherently contain the triterpene glycyrrhizic acid. The reference by Yng-Wong describes an herbal complex having Formula II that contains *Glycyrrhizae glabra* and *Saussurea lappa* (Table in column 2). Yng-Wong discloses that the herbal complex of Formula II is prepared as a 1:1 extract using about 95% SDA 3C and about 5% water (column 3, lines 24-52). The solvent SDA 3C is indicated to be 95% ethanol and 5% isopropanol (column 3, lines 6-8).

Applicants respectfully submit that Yng-Wong does not teach the claimed compositions comprising, as a first component, an effective amount of a sesquiterpene lactone species and an effective amount of a second component selected from the group consisting of a diterpene lactone species and a triterpene species or derivatives thereof. As evidence that Yng-Wong does not teach the claimed composition, submitted herewith as Exhibit A is a Rule 132 Declaration by one of the inventors, John G. Babish, attesting that the extraction method described by Yng-Wong to obtain Formula II containing *Glycyrrhizae glabra* and *Saussurea lappa* would not result in the claimed composition. In particular, the extraction method disclosed by Yng-Wong would not provide "an effective amount" of sesquiterpene lactones or "an effective amount" of triterpenes. The Declaration also indicates that the solvent used by Yng-Wong to make Formula II would extract very few vitamins and no minerals, fats or proteins. Absent such a teaching, Yng-Wong cannot anticipate the claims.

Regarding new claims 43-62, these claims recite compositions containing a pharmaceutical grade sesquiterpene lactone species and diterpene lactone species. It is respectfully submitted that Yng-Wong does not teach the claimed compositions of new claims 43-62.


As discussed above and corroborated by the evidence presented as Exhibit A, Applicants respectfully submit that Yng-Wong does not teach the claimed compositions. Absent such a teaching, Applicants submit that the Yng-Wong cannot anticipate the claims and respectfully request that this rejection be withdrawn.

CONCLUSION

In light of the amendments and remarks herein, Applicants submit that the claims are now in condition for allowance and respectfully request a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

Respectfully submitted,

Date: December 29, 2003



Deborah L. Cadena

Registration No. 44,048

Telephone: (858) 535-9001

Facsimile: (858) 535-8949

McDERMOTT, WILL & EMERY
4370 La Jolla Village Drive, Suite 700
San Diego, California 92122